

ZONING BOARD OF APPEALS MEETING MINUTES

Thursday, January 7, 2021

(Posted in accordance with the provisions of MGL Ch. 39, Sec. 23A, as amended)

7:00 p.m.

City Hall Auditorium

62 Friend Street

Amesbury, MA 01913

Attendance: Sharon McDermot (Chair), Donna Collins, David Haraske, Michael McCarthy, Matt Vincent

Also in attendance: Building Inspector Denis Nadeau, Recording Secretary Janice Valverde

Chairwoman Sharon McDermot calls the meeting to order at 7:00 p.m.

Chair announces that the agenda includes the **minutes** of the October 22, 2020 meeting and two **Public Hearings**.

Cathy J. Deluca is seeking a **SPECIAL PERMIT/ FINDING** under the Amesbury zoning Bylaw, Section XL.K.2 to convert an existing attached garage to an in-law apartment. The property is located at **20 Old Merrill Street**, Amesbury, MA in an R20 zoning district (map 91, lot 12D) according to the Assessors database.

Nelson Seidl is seeking a **SPECIAL PERMIT/ FINDING** under the Amesbury zoning Bylaw, Section XI.K.1 to convert an existing single family dwelling into a two family dwelling. The property is located at **30 South Martin Road**, Amesbury MA in an I zoning district (map 98, lot) according to the Assessors database.

Chair McDermot asks if everyone had a chance to read the minutes of October 22, 2020, and if there are any comments or concerns. There are none. She asks if there is a motion to accept the minutes.

Donna Collins moves to approve as written the minutes of the Zoning Board of Appeals meeting of October 22, 2020.

Matt Vincents seconds the motion.

The motion passes unanimously.

PUBLIC HEARINGS

Cathy J. Deluca is seeking a **SPECIAL PERMIT/ FINDING** under the Amesbury zoning Bylaw, Section XL.K.2 to convert an existing attached garage to an in-law apartment. The property is located at **20 Old Merrill Street**, Amesbury, MA in an R20 zoning district (map 91, lot 12D) according to the Assessors database.

Chair McDermot invites De Luca to the podium to speak on her application. She says there is no intention to build out or build up, only to convert the existing space to an in-law apartment for her use, to include a kitchen and bath, living room and bedroom.

Chair McDermot notes that there is no plan included in the application package and says the Board needs a plan.

Michael McCarthy apparently has the original plan in his package and passes it to the other Board members to review.

Building Inspector Denis Nadeau makes copies of the plan and distributes it to the others.

Deluca continues, saying that the square footage of the space is 621 square feet and it will remain as such. The garage doors will be replaced with one door and a window on either side of it. There will be two exit/entrance doors, the one in front to be added, and one in back which is pre-existing.

Chair McDermot asks if there are any questions. She notes that parking will not be an issue since the same people will be living on the property, with the same number of cars.

Given that the Board has no questions for DeLuca, the Chair asks if they are ready for Summary of Findings.

Chair McDermot asks:

1. Does the intended use currently exist in the Table of Uses. Board replies yes unanimously.
2. Is it essential/desirable to public convenience/welfare? Board replies yes unanimously.
3. Will it create under traffic/impede pedestrian safety? Board replies unanimously that it will not.
4. Will it overload public systems? Board replies unanimously that it will not.
5. Are special conditions (Section XI) satisfied? Board replies yes unanimously.
6. Will it impair character/health/welfare of district? Board replies unanimously that it will not. Will it create excess of use in neighborhood? Board replies unanimously that it will not.

Chair McDermot reads **Section XI.K.2 In-law Apartments** of the zoning bylaw which states: The special permit shall be issued for an in-law apartment subject to the following requirements:

1. The special permit will be issued for a period of five (5) years and will be renewable upon request providing the application continues to meet the requirements of the special permit. The special permit shall expire if the conditions of approval are not maintained or the in-law apartments ceases to be occupied as provided herein;
2. Where new kitchen appliances have been added, they shall be removed within six (6) months of the expiration of the special permit and the Building Inspector shall report such removal to the Zoning Board of Appeals;
3. There shall not be separately metered electric or water service to the in-law apartment;
4. All safety, health and building codes are to be met;
5. There shall be no boarders or lodgers within either unit of the dwelling with an accessory in-law apartment.
6. There shall be parking for one(1) additional car for the in-law apartment; and
7. If the in-law apartment becomes vacant, the owner must report the vacancy to the Building Inspector within 60 days and the owner will be given six (6) months to remove all the kitchen appliances.

Chair McDermot asks if there is a motion to approve or deny the application.

Donna Collins makes a motion to approve the application.

Matt Vincent seconds the motion.

The motion passes unanimously to approve the application for a special permit.

Chair McDermot informs Deluca that her permit application is approved and that she has a 20-day appeal period.

Nelson Seidl is seeking a **SPECIAL PERMIT/ FINDING** under the Amesbury zoning Bylaw, Section X1.K.1 to convert an existing single family dwelling into a two family dwelling. The property is located at **30 South Martin Road**, Amesbury MA in an I zoning district (map 98, lot) according to the Assessors database.

Chair McDermot invites Attorney Althea Volper of Healey, Deshaies, Gagliardi & Woelfel, PC to the podium to speak on behalf of Nelson Seidl.

Volper says that Seidl is seeking a special permit under Section X1.K.1 to convert an existing single-family home to a two-family home. It predates zoning since it was built in 1900. It is located in what is now zoned as an Industrial District.

Volperl refers to a letter of November 2, 2020² from City of Amesbury Zoning Compliance Officer Nadeau in which he states that his interpretation of Zoning Bylaw Section 6F, a pre-existing residential use in an Industrial District should be treated as if located in an R-8 District.

Volperl quotes from the letter: *Section [XI.KI](#) of the Amesbury Zoning Bylaw provides that a Special Permit to convert a single-family dwelling into a two-family dwelling may be granted in the R-8 and R-20 Zoning Districts. Section VI.F of the Amesbury Zoning Bylaw provides, in part, that '[E]xisting residential uses in a 'C' or 'I' District shall be subject to the regulations for the particular type dwelling as defined in the R-8 District.*

Therefore, it is my opinion that your pre-existing residential use in the I Zoning District should be treated as if located in the R-8 Zoning District."

Volper says the applicant relies on the interpretation of the Zoning Compliance Officer in his application for a Special Permit. Furthermore, she stated that the application meets the requirements for residential conversions under Section XI.K1.

She continued, saying that in no instance shall the lot be less than 12,000 square feet. The applicant's lot is 27,971 square feet.

Second, she said the minimum lot frontage must be at least 80 feet in the R-8 zone, and not less than the required minimum in all other zones. This lot has 219 feet of frontage.

Third, Volper said there is a minimum off-street parking for three (3) vehicles. Fourth, all other dimensional requirements of the zoning district on which the conversion is proposed are met.

In this case, she stated, all dimensional requirements are met, when utilizing the 8,000 square foot area requirement for an R-8 District. The provisions under number 5 through 9 are either met or do not apply.

Chair McDermot asks the Board if there are questions for the applicant. The Board has no questions, but Inspector Nadeau asks to speak. He says that it is an unusual situation, but he did his homework and concluded that the matter falls under R-8 district zoning dimensions there are not and cannot be separate units. He concludes that it is "best use of land." review the Summary of Findings. They reply unanimously that they are. McDermot asks if the proposal conversion of the single-family dwelling to a two-family dwelling:

1. Currently exists in the Table of Uses. Board replies unanimously that it does.
2. Is essential/desirable to public convenience/welfare. Board replies unanimously that it is.
3. Will not create tinder traffic/impede pedestrian safety. Board replies unanimously that it will not.
4. Will not overload public systems. Board replies unanimously that it will not.

5. Satisfies Special Conditions (Section XI). Board replies unanimously that it does.
6. Will not impair character/health/welfare of district? Board replies unanimously that it will not.
7. Will not create excess of use in neighborhood. Board replies unanimously that it will not.

Chair McDermot asks if there is a motion to approve or disapprove the application for Special Permit/Finding on the property at 30 South Martin Road.

Michael McCarthy moves to approve the application.

Donna Collins seconds the motion to approve the application.

The motion passes unanimously to approve the application for a special permit.

Chair McDermot informs Atty. Volper that the application has been approved and there is a 20-day appeal period.

Chair McDermot asks if there is a motion to adjourn the meeting.

Matt Vincent moves to adjourn the meeting.

Michael McCarthy seconds the motion to adjourn the meeting.

The motion passes unanimously to adjourn at 7:44.

Meeting is adjourned at 7:44 p.m.